

PURCHASING POLICY MANUAL



CITY OF IOWA CITY

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SECTION I. INTRODUCTION

A. Purpose

The purpose of this manual is to define the City of Iowa City's purchasing policies, for both goods and services and public improvements, in order to establish uniform purchasing practices throughout the City's departments and divisions. The policies in this manual encourage competition while promoting fair and equitable treatment of individuals who participate in the procurement process. In the event there is a separate funding authority with its own procurement policy, departments and divisions shall follow both the funding authority's rules, as well as the City's purchasing policies. If they conflict, the more stringent policy shall prevail.

The Iowa City Public Library and Iowa City Airport are managed by their own separate governing bodies and adopt their own purchasing policies. All other City entities are governed by this Purchasing Manual.

B. Authority to Purchase

City Council

Any spending authority not delegated by City Council is retained by City Council. The City Council determines expenditure levels through the formulation and approval of an Annual Operating Budget and Capital Improvements Program. In performing this policy-making function, the City Council establishes a set of goals, priorities, and performance standards which the City organization directs its collective efforts toward accomplishing.

The adoption of the Annual Operating Budget is the approval of a level of expenditures necessary to accomplish the goals and objectives that have been established by each City program. With the exception of specific statutory requirements for Public Improvements, and subject to the limitations imposed by Council resolution on City Manager spending authority, no further Council action is required to initiate purchases within the budget (See Section III (A) of the Purchasing Policy Manual for more on Public Improvements).

City Manager

The City Manager is delegated the responsibility by the City Council to carry out the policy, direction, and goals of the City Council. It is the City Manager's responsibility to manage the Annual Operating Budget in such a way that the goals and priorities of the City Council are accomplished. All recommendations for changes in the City's general purchasing policy will be made with the prior approval of the City Manager.

The City Manager may, for good reason consistent with the purposes of these policies, give written permission to the Purchasing Agent to allow a purchase that is not in compliance with these policies, if the waiver is not inconsistent with applicable law. The City Manager or designee may amend this Purchasing Manual to reflect City Council action. Any other change to the manual must be approved by the City Council.

The Purchasing Agent, City Engineer, and the Equipment Superintendent have been designated by the City Manager to carry out the policies and procedures of the Purchasing Manual. Each of these positions, and their respective divisions, is responsible for implementing and ensuring compliance with the City's procurement requirements.

The Purchasing Agent assists City departments with the procurement of goods, services, and professional and consulting services. The Equipment Superintendent assists with the acquisition of equipment, vehicles, and fuel, while the City Engineer is responsible for the procurement of Public Improvements and related consultant services.

Departments

City Departments are responsible for meeting the goals and objectives established by City Council and the City Manager and are provided budget funds to meet these goals. For proper management control, **it is necessary that Departments have budget authority prior to making a purchase.**

Note: Budget authorization for the expenditure of funds does not negate a department's responsibility to follow the City's purchasing policies and bid thresholds stated within this manual.

C. Employee Responsibility

It is the individual responsibility of each employee involved in the procurement process to understand the intent and the meaning of the policies and the procedures stated in this manual. If there is any question or concern relative to either the policies or procedures, or the ability of the employee to respond effectively to the requirements of the procedures, then it is the responsibility of the employee to bring it to the attention of the Purchasing Agent immediately. Employees failing to follow the purchasing policies may be subject to discipline.

SECTION II. STANDARD PROCUREMENT PROCEDURES

A. Minimum Solicitation Requirements

The method of procurement for City departments shall be in accordance with the Purchasing Manual and shall consider the nature and circumstances of the specific procurement. The minimum standard methods of procurement are listed below. Exceptions and additional requirements to the below methods are listed in Section III. Departments should also inquire with the Purchasing Division whether the City already has a contract for whatever goods or services are being sought.

If City Attorney's Office approval/signature is required in Section B., the City Attorney's Office approval/signature must be obtained prior to being signed by the individual with the authority to make the purchase.

Note: Freight, handling, and installation costs are included in all dollar limits stated below. **City departments are strictly prohibited from dividing purchases into multiple transactions in order to avoid the bid threshold requirements.** Similar purchases across departments may be combined at the Purchasing Division's discretion to obtain better pricing, service, efficiency, or other purposes that are beneficial to the City.

All consultants hired to assist with the development of specifications for a purchase shall be excluded from competing in the procurement process for the award of a contract for that particular purchase.

B. Limits/Signatures Required

NOTE: The thresholds identified below are based on the cost of the initial term of the contract without considering future extensions.

NOTE: Public improvement purchases that are less than \$25,000 shall follow the methods below in subsections (1) and (2). For public improvement purchases of \$25,000 or more please see Section V.

1.) \$10,000 or less (Informal Quotation Process):

Procurement Procedure: No set procedure. Pricing obtained must be reasonable.
Quotes are recommended.
Type of Purchase: All purchases unless exception listed in Section III.
Signature Required: Department Director or designee
City Attorney Signature: Only on contracts for professional or consulting services

2.) \$10,001 to \$24,999 (Informal Competitive Process):

Procurement Procedure: Request for Quote (RFQ) required.
Munis: Purchase Order or Contract required; quotes supporting the procurement method must be stored in the Purchase Order or Contracts Module.
Type of Purchase: All purchases unless listed as an exclusion in Section III.
Signature Required: Department Director
City Attorney Signature: Only on contracts for professional or consulting services

3.) \$25,000 and higher (Formal Competitive Process):

Type of Purchase: Professional and Consulting Services (See Section III.B.)
Signatures Required:
\$25,000 to \$60,000 Department Director and City Manager
>\$60,000 Department Director, City Manager, and City Council
City Attorney Signature: All purchases

Type of Purchase: All others unless listed as an exclusion in Section III.

Signatures Required:

\$25,000 to \$150,000 Department Director and City Manager

>\$150,000 Department Director, City Manager, and City Council

City Attorney Signature: All purchases

Munis: Purchase Order or Contract required; proposals or bids supporting the procurement method must be stored in the Purchase Order or Contracts Module.

C. Methods

Request for Quote (RFQ)

The buyer will seek a minimum of three written quotations and an award will be made to the vendor who provides the quote with the best combination of cost and quality for the specified good or service. The written quotes must include the date, name of the company, name of the company representative, a description of the goods and/or service (manufacturer, model #, dimensions, etc.), delivery date, freight, terms, and dollar amount.

Requests for quotes are managed by each department unless assistance is requested from the Purchasing or Engineering Division.

Request for Bid (RFB)

A Request for Bid is a formal method used to solicit competitive sealed bids. **All Request for Bids will be conducted by the Purchasing Division, Engineering Division, or Equipment Division.** A bid is submitted to the City Clerk's office in a sealed envelope and is not opened until a specified time and date, otherwise known as a public bid opening. Award of the bid is made to the lowest responsible and responsive bidder meeting the standards, specifications, and the General Terms and Conditions contained within the solicitation. Bids not received by the stated due date and time will be rejected.

Request for Proposal (RFP)

A Request for Proposal is a formal method used to solicit competitive sealed proposals that includes all of the information contained within a bid as well as other criteria for evaluation.

All Request for Proposals will be conducted by the Purchasing Division, Engineering Division, or Equipment Division. This form of solicitation is not evaluated on price alone; criteria including, but not limited to, the following may be used in evaluating proposals: the quality of the product or service, company responsibility and history, references, financial stability, technical expertise, warranties and guarantees, price, compliance with the specifications, management/customer service, and General Terms and Conditions. The criteria used and the value placed on the criteria will depend on the goods and/or the services solicited.

Proposals are received as outlined in the proposal document; proposals may be allowed by paper or electronic means. Paper proposals are received by the City Clerk's office and electronic submissions are received by electronic bidding software. Proposals received after the due date and time may be rejected. The Purchasing Division, Engineering Division, or the Equipment Division reviews the submitted proposals to make sure that they are complete. The Purchasing Division, Engineering Division, and Equipment Division reserve the right, but are not required, to seek additional information from a proposer or proposers during the review process to ensure their proposal(s) are complete. Only those proposals that are considered complete, otherwise known as responsive, are dispersed to an evaluation committee. The evaluation committee will consist of representatives from the department making the purchase, and other representatives appointed by the Purchasing Division, Engineering Division, or the Equipment Division in cooperation with the department. The committee will receive the complete proposals with instructions from the Purchasing Division, Engineering Division, or the Equipment Division regarding the evaluation process. The evaluation committee shall sign and adhere to the instructions.

Once the evaluation committee has reviewed and scored the proposals, the evaluation committee may meet to discuss the proposals and the evaluations. Such discussion may result in final ranking that differs from the original individual scores of evaluators. During this time, items in question will be discussed. The evaluation committee may decide to make an award, elect to request clarification on the proposals, or request a best and final offer from one or more proposers. The evaluation committee may also request an oral presentation to assist with the final decision to award. **During this time, all contact with the vendor will be conducted solely through the Purchasing Division, Engineering Division, or the Equipment Division's point of contact**, and responses will be presented in writing to the committee.

Request for Qualifications (RFOL)

A Request for Qualifications is a formal method used to solicit competitive sealed proposals for the procurement of professional or consulting services that awards the purchase to the firm(s) based upon the firm's expertise and past performance. **All Request for Qualifications will be conducted by the Purchasing Division, Engineering Division, or Equipment Division.** This form of solicitation is evaluated on criteria including, but not limited to: the company responsibility and history, references, financial stability, technical expertise, experience, project approach, and cost. The criteria used and the value placed on the criteria will depend on the professional or consulting services solicited.

Qualifications are received as outlined in the proposal document; qualifications may be allowed by paper or electronic means. Paper qualifications are received by the City Clerk's office and electronic submissions are received by electronic bidding software. Qualifications received after the due date and time may be rejected. The Purchasing Division, Engineering Division, or the Equipment Division reviews the submitted qualifications to make sure that they are complete. The Purchasing Division, Engineering Division, and Equipment Division reserve the right, but are not required, to seek additional information from a proposer or proposers during the review process to ensure their qualification(s) are complete. Only those qualifications that are considered complete, otherwise known as responsive, are dispersed to an evaluation committee. The evaluation committee, which will consist of representatives from the department making the purchase, and other representatives appointed by the Purchasing Division, Engineering Division, or the Equipment Division in cooperation with the department, will receive the complete qualifications with instructions from the Purchasing Division, Engineering Division, or the Equipment Division regarding the evaluation process. The evaluation committee shall sign and adhere to the instructions.

Once the evaluation committee has reviewed and scored the qualifications, the evaluation committee may meet to discuss the qualifications and the evaluations. During this time, items

in question will be discussed. Such discussion may result in final ranking that differs from the original individual scores of evaluators. The evaluation committee may decide to make an award or elect to request clarification on the qualifications. The evaluation committee may also request an oral presentation to assist with the final decision to award. **During this time, all contact with the vendor will be conducted solely through the Purchasing Division, Engineering Division, or the Equipment Division's point of contact**, and responses will be presented in writing to the committee.

D. Advertising Public Bids, Request for Proposals, and Request for Qualifications - City of Iowa City Website

With the emergence of electronic procurement, the City of Iowa City's public website has become one of the main advertising resources for formal Request for Bid, Request for Proposal, and Request for Qualifications solicitations. The Purchasing Division, Engineering Division, and the Equipment Division must post Request for Proposals, Request for Bids, Request for Qualifications, addendums, and bid results to the City's website. The Purchasing Division, Engineering Division, and the Equipment Division in cooperation with the department will use their discretion in determining other appropriate methods of advertising bid and proposal solicitations.

E. Contract Negotiation and Approval

Contract negotiations with a proposer or bidder will be a collaborative process between the Purchasing, Engineering, or Equipment divisions, the City Attorney's Office, and the department making the purchase. In order to ensure all of the needs of the City are met, the office (of those mentioned above) with greatest knowledge, experience, and resources pertaining to the good or service being acquired will take the lead on the negotiation; however, all involved City divisions will take a participatory role. The department making the purchase shall be responsible for approving the final contract. The Purchasing, Engineering, or Equipment divisions will be responsible for preparing the contract for final approval and signature.

SECTION III. EXCEPTIONS/MODIFICATIONS TO STANDARD PROCUREMENT PROCEDURES

Unless noted below, all purchases in this section must follow the City's bidding procedures, with respect to the dollar limits listed in Section II. Standard Procurement Procedures, B. Limits. In addition, the contract entry or purchase order entry procedures listed in Section II apply to the following procurements.

A. Public Improvements of \$25,000 and Higher

Public improvement projects differ significantly from the procedures used to procure goods and/or services, and the procurement for this work must be done in accordance with Iowa Code. Section V of this manual sets forth City policies for public improvement procurements of \$25,000 and higher.

Whether a project is a public improvement is controlled by Iowa Code Chapter 26, Public Construction Bidding, which currently defines a public improvement as outlined in Appendix I, Public Improvement.

If the procurement meets the definition of a public improvement project, or there is a question whether the project qualifies as a public improvement project under Iowa law, acquiring departments should consult with the City Attorney's Office for direction.

All Public Improvement projects and competitive bid processes of \$25,000 and higher will be managed by the City's Engineering Division (see Section V. of the Purchasing Manual for policies and procedures for Public Improvements).

B. Professional and Consulting Services

Professional and Consulting Services include services provided by consultants or individuals or organizations possessing a high degree of education and training, such as lawyers, physicians, architects, planners, and engineers. The requested services may include information, professional advice, training, or direct assistance. Contractors working within other skilled or technical trades, such as construction, mechanical plumbing, electrical services, etc. are considered as providing Operational Services, not Professional and Consulting Services. It is the responsibility of the requesting department to confirm that the contractor possesses the skills required to perform the job. Cost remains an important consideration in securing Professional and Consulting Services.

The requestor from the department must confirm that the service provider does not appear on the Prohibited Interest List, maintained by the Finance Department. Written contracts should contain the Prohibited Interest in Public Contracts Policy language, found in Section IV B.

C. Lease of Real Property or Rental of Equipment from Another Party for More than One Year

City Council signature approval is required for any lease of real property from another party for a term of 3 years or more (including all optional renewals). City Manager signature approval and Department Director approval is required for the leasing or rental of equipment for more than one year. All written lease contracts for real property or rental of equipment from another party must be reviewed and approved by the City Attorney's Office. For any lease longer than one year for either real property or equipment rental, a copy of the signed lease should be forwarded to the Accounting division.

The City allows the leasing or rental of equipment or building(s) if all of the following requirements are met:

1. Funds are budgeted and available to the requesting department; and
2. The period of time involved does not extend beyond fund availability; and

3. It is not the intent of the initial rental to transition into a lease/purchase option except for eligible purposes as listed in the City Debt Management Policy.

D. Information Technology Purchase Procedures

ITS **approval** is required for any Information Technology procurement.

1.) Hardware and Software Purchases and Related Maintenance Agreements

The department initiating the procurement of information technology goods and services, shall submit a "Hardware/Software Recommendation" form to the Information Technology Services (ITS) Help Desk for evaluation and assistance and approval. In the case of information technology goods and services which are not linked to the City's computer network, and which are not supported by ITS, the initiating Department may inform ITS of its intended procurement via e-mail or memo, rather than by submitting a Hardware/Software Recommendation form. (ITS may request additional information from the initiating department if the intended procurement raises concerns as to connectivity, security, alternative procurement that may be less expensive or more efficient, or other issues of concern to ITS). ITS shall provide assistance in the development of specifications for hardware and software needs and related maintenance agreements and development of a Scope of Work ("SOW") to ensure compatibility with existing city hardware and software.

2.) IT Consulting Services

ITS will assist the initiating department in the development of the SOW. A preliminary SOW will be submitted to ITS for approval, and ITS will either recommend the SOW be accomplished with in-house resources, or the procurement of an outside source. If outsource procurement is required, ITS will assist the initiating department in defining outsource requirements.

- 3.) Departments will submit computer-related requests through ITS for review and approval prior to P-Card purchases. ITS will submit requests to the Purchasing Division to issue of any necessary purchase orders or requisitions. ITS will review the computer-related requests and either return it to the initiating department with comments and/or recommendations or forward the completed request to the Purchasing Division.

- 4.) Unless otherwise specified by ITS, all IT equipment will be delivered to ITS, and ITS will be responsible to track and verify satisfactory receipt of equipment. If the delivery is made directly to the initiating department, the department will immediately alert ITS of the equipment's arrival for inventory tracking purposes.

E. Department of Transportation Rock Salt Contract

The City of Iowa City piggybacks onto the Iowa Department of Transportation's Request for Bid on a yearly basis. Although expenditures for this contract can be over \$150,000, City Council approval is not required due to state procurement requirements.

F. Insurance Coverage

Insurance premium payments are approved through the City Council as part of the budget process. Contracts and other documents relating to procurement and management of insurance coverage over \$150,000 need not be approved by the City Council. The City Council has delegated the City Manager to initiate and execute these contracts and related documents. The City Attorney will review any contract if requested by Finance or the City Manager.

G. Travel and Training

The City's Travel and Training policy is located on the intranet under Employee Information > Other City Policies/Guidelines.

H. Bulk/Pooled Purchasing

Where departments purchase similar goods and services and it is in the best interest of the City, these purchases should be pooled together for bidding purposes. A list of commonly used and shared goods and services shall be maintained by the Purchasing Division in the Finance Department.

I. Emergency Purchases

An emergency purchase may be exempt from the competitive bidding process when the purchase is made due to an unexpected and urgent need, where health and safety or the conservation of public resources is at risk. The use of this process is greatly discouraged and should be utilized only when absolutely necessary. **Emergency purchases that are considered public improvements under Iowa Code Section 26.2 (3), must follow the emergency bidding requirements set by state code (see Section V. of the Purchasing Manual for policies and procedures for Public Improvements).**

Before proceeding with an emergency purchase, the department requiring the commodity or service must receive written approval from the City Manager or designee. Within two (2) weeks following the emergency purchase, the department making the purchase must complete an "Emergency Purchase Form" available from the Purchasing Division and return it to the Purchasing Division. The form will be filed with the purchase in the City's financial ERP system.

J. Sole Source

In general, all purchases shall be made on a competitive basis. However, there may be a reason to request a Sole Source purchase. This means that there must be only one product or service that meets the department's needs, and there is only one vendor through whom the product or service can be procured. In this situation, the individual requesting the purchase must complete a Sole Source Procurement Request form and receive the required signatures; including, but not limited to, the Purchasing Agent, City Manager or designee and the City Attorney's Office. Sole Source is not appropriate for use when the department has picked a preferred vendor or product among other available vendors or products. A sole source procurement, once approved, is effective for a period of five (5) years.

Examples of a Sole Source procurement include:

- 1.) Items which must be compatible with existing equipment or systems and are available only from the original manufacturer or an exclusive distributor.
- 2.) Services that can be provided by only one source due to nature of the equipment requiring service (proprietary equipment features).
- 3.) Items that have specific features or are related to a specific geographic location that are available from only one source, by virtue of experience, expertise, proximity, or ownership of intellectual property rights.
- 4.) Items or services of information technology for which there are compatibility considerations, or the purchase would prevent voidance or termination of a warranty, or the purchase would prevent default under contract or other obligations.
- 5.) The Federal government or other government provider of funds for the items or services being purchased has imposed clear and specific restrictions on the use of the funds in a way that restricts the procurement to only one vendor.
- 6.) Professional and Consulting Services when it is in the City's best interest to use the services of a particular provider due to expertise, experience or knowledge of City operations if the City Manager has authorized use of this sole source criteria prior to submission of the Sole Source procurement Request form.

K. Cooperative Purchasing

“Piggybacking”, a form of cooperative purchasing, allows government and government-related agencies to utilize existing purchasing contracts or agreements from other government entities. This type of purchasing is a competitive form of procurement that combines the requirements of two or more agencies in order to reduce administrative expenses and obtain better pricing based on volume discounts. City Attorney approval of cooperative purchase contracts is not required, but review by the City Attorney may be requested.

In order for a government agency to participate in this form of cooperative purchasing, the following criteria must exist:

- 1.) The purchasing contract must be current.
- 2.) The purchasing contract must be the result of a formal competitive process.
- 3.) The government agency administering the contract must be willing to allow participation on behalf of other government agencies (note: participation may be limited to specific government agencies based on location, etc.).
- 4.) The government agency taking advantage of the existing contract must purchase the same products identified in the contract.
- 5.) If the cooperative purchasing contract is a regional contract, the state or the government agency requesting participation must have signed a contract to participate.

L. Non-Profit Job Training

Contracts with non-profit entities for goods or services provided by those receiving job training from the non-profit entity shall be excluded from this manual’s competitive procurement requirements. All signature authority requirements remain in place with the exception that Council approval is not required as the Council has given the City Manager authority to approve all such contracts without regard to price.

M. Contracts with Other Governmental Entities

Contracts with other governmental entities for goods or services shall be excluded from this manual’s competitive procurement requirements. All signature authority requirements remain in place with the exception that Council approval is not required as the Council has given the City Manager authority to approve all such contracts without regard to price.

SECTION IV. LEGAL/CONTRACTUAL REQUIREMENTS

A. Gratuities/ Gift Law

As stated in Iowa Code section 68B.22, as amended, the “Gift Law” prohibits officials, employees, candidates, or their immediate family members from receiving or soliciting gifts from a person who is or is seeking to be a party to a sale, purchase, lease, or contract with the City. Gifts from such restricted donors may be accepted only if they are worth \$3.00 or less. Additional exceptions can be found in Iowa Code Section 68B.22(4), as amended, but should not be relied on without the approval of the City Attorney’s Office.

B. Prohibited Interest in Public Contracts Policy

Pursuant to Iowa Code section 362.5 says that City employees shall not have a direct or indirect interest in any contract, job, or sale that is entered into, or services that are performed, for the City. Contracts made in violation of this prohibition are void unless certain exceptions apply. See “Prohibited Contracts” Administrative (City Manager) Regulation Policy for additional detail.

Before proceeding with a purchase, the department procuring the goods or services must confirm the vendor is not on the Prohibited Vendor list, that is available on the City’s Intranet. Some exceptions apply, but no procurement may be made from a Prohibited Vendor without the written approval of the City Attorney’s Office. Procurements made in violation of this policy may result in disciplinary action and/or criminal charges under Iowa Code Section 362.5.

C. Wage Theft Policy

All City contractors with contracts of \$25,000 or more must abide by the requirements of the City’s Wage Theft Policy. Pursuant to the Wage Theft Policy, the City will not enter into certain contracts with, or provide discretionary economic development assistance to, any person or entity (including an owner of more than 25% of the entity) who has admitted guilt or liability or been adjudicated guilty or liable in any judicial or administrative proceeding of committing a repeated or willful violation of the Iowa Wage Payment Collection law, the Iowa Minimum Wage Act, the Federal Fair Labor Standards Act or any comparable state statute or local ordinance, which governs the payment of wages, for a period of five (5) years from the date of the last conviction, entry of plea, administrative finding or admission of guilt.

The Wage Theft Policy does not apply to emergency purchases of goods and services, emergency construction or public improvement work, sole source contracts excepted by the City’s purchasing manual, cooperative/piggyback purchasing or contracts with other governmental entities. For all other applicable contracts, the City’s Wage Theft Policy must be included in the City’s solicitation/bid package.

D. Local Preference

Preference may be given to local businesses or vendors that have a business located within Johnson County. This includes branch operations and franchises. Cost and other considerations being equal, local businesses shall be given first consideration for the purchase of goods or services. A local business or vendor that submits a quote or bid by the established deadline falling within 5% of the lowest bid will have the opportunity to match the lowest price submitted, but only if that price was submitted by a non-local vendor.

In this instance, the City representative responsible for issuing the solicitation will contact the local vendor/business that has fallen within the 5% threshold to request a price match. The business/vendor will have a twenty-four (24) hour period to submit a written price match to the City representative. If more than one local business/vendor meets the criteria above, each local vendor will be given forty-eight hours to submit a lower bid in writing. All revised bids must be at or lower than the original lowest bid. At the close of the forty-eight (48) hour period, the

contract will be awarded to the lowest bidder, local or otherwise. In the event of a tie, the local vendor will be awarded the contract. If two or more local vendors tie, the award will be determined by coin flip.

The local preference policy does not apply to Public Improvement projects, goods and services acquired through the Request for Proposal or Request for Qualifications process, or purchases utilizing Federal Transit funds or Federal funding.

E. Minimum Wage Preference

Preference may be given to businesses or vendors that have a certified minimum wage at or above the Johnson County recommended minimum wage. This includes branch operations and franchises. Cost and other considerations being equal, businesses that have a certified minimum wage at or above the Johnson County recommended minimum wage shall be given first consideration for the purchase of goods or services. A business or vendor that has a certified minimum wage at or above the Johnson County recommended minimum wage that submits a quote or bid by the established deadline falling within 5% of the lowest bid will have the opportunity to match the lowest price submitted, but only if that price was submitted by a vendor that has not certified that they pay a minimum wage at or above the Johnson County recommended minimum wage .

In this instance, the City representative responsible for issuing the solicitation will contact the vendor/business that has fallen within the 5% threshold to request a price match. The business/vendor will have a twenty-four hour period to submit a written price match to the City representative. If more than one business/vendor meets the criteria above, each vendor will be given forty-eight hours to submit a lower bid in writing. All revised bids must be at or lower than the original lowest bid. At the close of the forty-eight hour period, the contract will be awarded to the lowest bidder, regardless of minimum wage. In the event of a tie, the vendor with the highest minimum wage will be awarded the contract. If two or more vendors tie, the award will be determined by coin flip.

The local preference policy does not apply to Public Improvement projects, goods and services acquired through the Request for Proposal or Qualifications process, or purchases utilizing Federal Transit funds or Federal funding.

F. State and Federal Funding

The purchasing policies stated in this manual are not preempted by the requirements for state and federal grants unless the city requirement is inconsistent with the state or federal grant requirements, in which case **departments shall follow the strictest of any applicable policy**. Departments shall adhere to the City's purchasing policies and all state and federal requirements, including completion of all required documents. In addition, all applicable conditions of state or federal funding must be included in bid and proposal solicitations.

Transit procurements conducted with funds administered by the Federal Transit Administration directly or through the Iowa Department of Transportation must follow all federal requirements. As these requirements differ from those outlined in the City of Iowa City Purchasing Manual, FTA regulations shall take precedence. The City of Iowa City Transportation Services Director shall provide documentation of the processes when federally funded procurements occur.

See APPENDIX II for additional requirements for purchasing under Federal awards.

G. Donated Funds

Departments are required to follow the bidding policies stated in this manual unless all of the following is true:

- 1.) Private funds are offered to the City for procurement of good or services.
- 2.) The City does not contribute any funds to the procurement.

H. Record Retention

The Purchasing Division and Public Works Department, who are responsible for the procurement of goods, services, and equipment, are required to retain all written contracts, including bid and request for proposal documents, the awarded vendor's bid or proposal, and the purchase order for a period of ten (10) years after expiration of the contract. Departments procuring goods, services, and equipment through the informal quotation process, where assistance is not provided by Purchasing, are responsible for retaining documentation (including all quotes received) for a period of ten (10) years after expiration of the contract.

I. Public Record

Procurement information shall be recognized as public record to the extent provided by law and as set by Council Resolution 07-260, passed August 21st, 2007. However, the identity of any vendor submitting a quote, bid, proposal, or qualifications and documents submitted may only be released to City staff prior to award of the contract, without approval of the City Attorney's Office. All details of contract quotes, bids, proposals, and qualifications shall be kept confidential until final award of the contract. Details of contracts requiring Council approval may be disclosed as part of the Council approval process. In that event, disclosures should be limited as much as possible in order to best preserve the integrity of the procurement process. Questions regarding the potential confidentiality of documents should be directed to the City Attorney's Office.

J. Surplus Equipment Transfer/Disposal

If a department no longer has a use for surplus vehicles and equipment, including, but not limited to, office furniture, heavy equipment, and computer equipment, the department should contact the Purchasing Division to assist with transfer or disposal. The Purchasing Division may contact other City divisions to determine whether they may have use for the surplus equipment. If no City department has use for the item, the Purchasing Division may dispose of it through public bidding (online), sealed bidding, the sale or transfer to other governmental agencies, or through donation or sale to a non-profit organization.

The department requesting the transfer/disposal of the equipment shall provide the Purchasing Division with a description of the item (color, measurements), make, model, serial number, condition of the item, and any other pertinent information required to assist with transfer/disposal.

K. Shipping Terms

When purchasing goods from a vendor it is important that the department understands and designates the appropriate shipping terms. The shipping terms not only determine who has the legal right to specify the carrier and the routing of any goods purchased, but they also define the point at which the City takes title of the goods, otherwise known as "free on board" (F.O.B.), and thus who takes the risk of damage during transit. The most common freight terms are F.O.B. destination and F.O.B. point of origin.

F.O.B. destination (City of Iowa City Address) – title/ownership of the goods passes to the department when the goods have been delivered to the City. The cost of shipping and the risk of loss are borne by the vendor. The vendor is responsible for the goods until they are delivered.

F.O.B. point of origin (vendor's facility) – title/ownership of the goods passes to the department at the vendor's facility. The department or division owns the goods in transit and files any claims. The department or division is responsible for the goods at the origin of shipment.

Note: F.O.B. destination (City of Iowa City Address) is the City's preferred method of shipping since the seller maintains ownership of the goods until they are delivered. The cost of shipping (activities performed in preparation of the outgoing shipment of goods, which may include packaging, weighing, marking, loading, etc.) and the risk of loss are borne by the seller.

L. Payment Terms

Before a department signs a contract for the procurement of goods or services the payment terms must be carefully reviewed. Unless otherwise specified, the City's standard payment terms designate that payment to the vendor may be made only after inspection, approval, and final acceptance of the goods or services. Procurements for construction, capital equipment, professional services and other labor intensive and/or capital-intensive projects may require interim payments. Interim payments or milestone payments must be clearly defined in written form in order to eliminate confusion between the City and the vendor. Whether the City makes interim payments or makes a single payment, **it is important that the department not only receives the goods or services, but performs a complete inspection and confirms that the products received or the services performed are acceptable before payment to the vendor is made. Payment in advance is strongly discouraged.** The City's ability to remedy a problem is severely hampered if we have already paid the vendor for the good or services. Advance payment or prepayment for products or services is strongly discouraged (exclusions: subscriptions, memberships).

SECTION V. PUBLIC IMPROVEMENTS

I. General Policies

- A. The purpose of this section is to procure the services of contractors by competition in a manner that will lead to the best results at the lowest price and to forestall fraud, favoritism and corruption in the making of contracts.
- B. These policies and procedures shall be maintained to be in conformance with the laws of the State of Iowa and shall be administered by the City Engineer, with assistance from the Public Works Director, City Attorney, Finance Director, and City Manager. In the event of a conflict between these policies and state law, state law shall apply.
- C. The public improvements procurement process is not required for soliciting and contracting for architectural, landscape architectural, engineering design, or other professional services for a public improvement project. Procurements such as this must be conducted in accordance with the provisions in Section II of the Purchasing Policy Manual.
- D. Minimum thresholds for competitive bidding will be established in Iowa Code section 26.3 and adjusted pursuant to Iowa Code section 314.1B. Public improvements that do not require competitive bidding under Iowa Code but are greater than \$25,000 will be subject to the competitive quotation process as defined by Iowa Administrative Code chapter 180 and this policy. **Public improvements that are estimated to cost less than \$25,000 will be subject to the bidding procedures set in Section II.B of the Purchasing Policy Manual.** Under Iowa Code Section 26.5, departments are prohibited from dividing the project into separate parts, regardless of intent.
- E. Thresholds for bidding are determined by the engineer's cost estimate for the total cost of the improvement. The estimated total cost to construct a public improvement, includes the cost of labor, materials, equipment, and supplies, but excludes the cost of architectural or engineering design services and inspection.
- F. The City will establish a uniform and consistent process for receiving bids and quotations for public improvement projects.
- G. The City will establish a uniform bid opening process to ensure uniformity and consistency with the way in which bids and quotations for public improvement projects are opened and reviewed. The department representative responsible for the bid opening shall follow this procedure for opening and announcing all bids and quotations pertaining to public improvement projects submitted by contractors and received by the designee.
- H. Any public improvement contract that is subject to the terms and conditions of a state or federal grant shall adhere to any additional requirements of the grant, and the necessary controls or procedures needed to properly monitor or report compliance with those requirements will be instituted. Any public improvement contract shall also adhere to any other limitations or requirements as determined by City Council.
- I. The City reserves the right to waive any minor informalities or irregularities contained in any bid or quote.

II. Competitive Bid Process

A. Solicitation of Bids

- 1. Detailed and written plans and specifications and a detailed cost estimate must be prepared for the public improvement project by a licensed engineer, licensed landscape architect and/or a licensed architect. The City Engineer or designee will approve the written plans and specifications and detailed cost estimate and will prepare the form of contract. The form of contract must be reviewed and approved by the City Attorney's office.
- 2. The City Engineer or designee shall prepare a memorandum summarizing the project plans and specifications, the scope of work, the project background, a

detailed cost estimate, and the funding sources. If the scope of the project has changed significantly from the scope that was approved in the Five-Year Capital Improvement Program, then any differences in scope must be explained in the memorandum as well. This memorandum must be reviewed by the City Attorney and the Finance Director and approved by the City Manager or their designees. The written plans and specifications and the detailed cost estimate shall then be placed on file with the City Clerk's office.

3. The City Council shall hold a public hearing and approve the proposed plans, specifications, form of contract, and estimated total cost. A notice of public hearing on the plans, specifications, form of contract, description of the project and its location, and the estimated total cost must be published by the City Clerk in the Iowa City Press Citizen and posted by the City Engineer or designee on the City's website more than 4 days but not more than 20 days before the public hearing.
4. Following the public hearing and Council approval of the plans, specifications, form of contract, and estimated total cost, the City Clerk shall post a notice to bidders in accordance with the resolution approving the plans and specifications. Those posting requirements may be satisfied by the City Clerk posting the notice on the Construction Update Network, operated by the Master Builders of Iowa, and the Iowa League of Cities website at least once, not less than 13 and not more than 45 days before the bid filing deadline. Additionally, the City Engineer or designee shall post the notice on the City's website within these same time limitations. This notice must state all information required by Iowa Code Section 26.7, including:
 - a. Time, place and method for filing sealed proposals;
 - b. Time, place and method sealed proposals will be opened and considered on behalf of the City, which shall be the same time and place stated in the Council approved plans and specifications;
 - c. The general nature of the public improvements on which bids are being requested;
 - d. In general terms, when the work must be commenced and when it must be completed;
 - e. Bid security and bid bond requirements.

B. Receiving Bids Process

1. Contractors shall file all bids with the City Clerk's Office before the time specified in the project specifications.
2. All bids shall be written on the appropriate City form.
 - a. Competitive bids can only be filed in a sealed envelope and must be delivered to the City Clerk's office by personal delivery or other mail delivery service. Each competitive bid must be accompanied by a Resident Bidder Form.
 - b. A bid bond must also be submitted in a separate, sealed envelope. If no such bond is timely filed, the bid will not be considered, and the Clerk or designee will return the bid unopened.
3. The City Clerk or designee who receives the bid shall note the time and date the bid is received. The City Clerk or designee shall make this notation on the outside of the sealed envelope. In addition to noting the time and date, as stated on the official City Clerk clock, the City Clerk or designee shall also sign his or her name or initials on the envelope upon receiving the bid.
4. No bids filed after the designated time will be received or considered. The City Clerk or designee shall return all late bids to the contractor unopened.

C. Bid Opening and Consideration Process

1. The Bid Opening Process will occur at the place, date, and time stated in the project specifications.
2. The City Engineer or designee shall introduce him or herself and announce that it is now _____ o'clock, the time specified for the receipt of bids and no more bids

- shall be received on the _____ project. (The closing of receipt of bids shall be exactly at the time specified). Any bids submitted after the time specified will not be accepted and will be returned to the bidder unopened.
3. The City Engineer or designee will introduce other representatives, consultants, local, State and/or Federal representatives in attendance.
 4. The City Engineer or designee will open the bids individually. The bid bond envelope will be opened first followed by the competitive bid envelope. The City Engineer or designee will announce the name of the bidder and whether:
 - a. A bid bond or other approved bid security has been received;
 - b. A Resident Bidder Form has been received;
 - c. The bid has been signed, is on the form specified and has acknowledged the addenda, if any exist;
 - d. All documents and/or attachments required to be submitted as part of the proposal are enclosed;
 - e. The Bid Proposal Form(s) has/have been completely filled out and the total amount of the bid can be readily determined.
 5. If any of the above items are missing or incomplete the bids will not be read or accepted but will be placed back in the envelope and returned to the Bidder. If the above items are enclosed and complete, then the City Clerk or designee will read the total base bid and the bid for any alternates listed in the proposal.
 6. After all bids have been read, the City Clerk or designee shall state verbally that “the bid opening is over, and the bids will be tabulated and posted on the City’s website.”
 7. The City Engineer or designee will review the bids to determine the lowest responsive, responsible bidder. A bid tabulation of the responsive bids received shall then be posted on the City’s website. Bids considered not responsive will not be posted.
 8. Once the lowest responsive, responsible bidder has been determined by the City Engineer or designee, the results must be reviewed by the City Attorney and the Finance Director and approved by the City Manager or designee. Following City Manager approval, the results shall be submitted to the City Council for consideration at the next regularly scheduled meeting occurring after the bid filing deadline, or for consideration at a special meeting called by the City Council for the purpose of considering the recommendation.
 - a. The City Engineer or designee shall recommend City Council award the contract to the lowest responsive, responsible bidder;
 - b. If all bids received are considered by the City Engineer or designee to be non-responsive or are not acceptable, the City Engineer or designee will recommend that Council reject all bids and rebid the project;
 - c. If the City only received one bid and it is 25% or higher than the Engineer’s Estimate, the recommendation to Council will be to reject it unless the City Engineer determines that accepting the bid would be the most prudent course of action, and it is approved by the City Manager.
 9. The City shall return the bidder’s bond to all unsuccessful bidders as soon as the City Council has awarded the contract or within 30 days from the bid opening, whichever is sooner.

III. Competitive Quotation Process

A. Solicitation of Quotations

1. The City Engineer or designee shall solicit competitive quotations for a public improvement when the estimated total cost of the public improvement equals or exceeds \$25,000 but is less than the competitive bid threshold established in Iowa Code section 26.3.
2. The City Engineer or designee shall make a good-faith effort to obtain quotations

for the work from at least two contractors regularly engaged in such work prior to letting a contract. Quotations shall be obtained by means of either an oral or a written solicitation directed to not less than two contractors. Solicitations shall also be posted on the City's website. Good faith effort shall include advising all contractors who have filed with the governmental entity a request for notice of projects.

3. Each solicitation shall include a description of the work to be performed, including the plans and specifications prepared by a licensed architect, landscape architect, or engineer if such plans are required for the project, and an opportunity to inspect the work site. Each contractor requesting to inspect the work site shall be provided an equal and adequate opportunity to do so.
4. Additional information deemed pertinent, or requested by a contractor, may be provided by the City Engineer or designee if the same information is provided to all contractors from which quotations are solicited. If the information is provided in written form to a contractor, it shall be provided in the same form to all contractors from which quotations are solicited.
5. In its solicitation, the City Engineer or designee shall:
 - a. Specify the required form and content of quotations. A competitive quotation filed by a contractor shall be in writing and shall include the total price for labor, equipment, materials and supplies required to perform the work. A contractor shall not be required to include in its quotation or in individual quotation items a breakdown of costs for labor, materials, equipment and supplies. Competitive quotations filed by contractors shall include all other information, documentation, or commitments as specified in the solicitation;
 - b. Require that quotations be filed with the City Clerk or designee in the City Clerk's office by a particular time;
 - c. Establish the acceptable method(s) for delivery of quotations in accordance with Iowa law.
 - d. Require that all quotations be sealed.

B. Receiving Competitive Quotations

1. Contractors shall file all quotations in the City Clerk's Office before the time specified.
2. The City Clerk or designee who receives the quotation shall note the time and date the quotation is received and the name of the person receiving the quote on the sealed envelope.
3. No quotations filed after the designated time will be received or considered. The City Clerk or designee shall return all late quotations to the contractor unopened.

C. Opening and Considering Competitive Quotations

1. If a quoting contractor does not file a quotation in the form required, or does not provide all information or documentation or make all commitments required, or does not sign the quotation if required, the quotation shall be determined to be nonresponsive and shall be rejected.
2. The City Manager or designee shall award the contract for the work to the contractor submitting the lowest responsive, responsible quotation, subject to Iowa Code section 26.9, or may reject all of the quotations. A contract shall be considered awarded when the City Manager or designee executes a contract for the work with the selected contractor.
3. The City Engineer shall draft a memo to the City Council summarizing the competitive quotation, which shall be reported in the meeting minutes of the next regular Council meeting.

IV. Contract Administration

1. The City Clerk or designee will advertise and bid all contracts qualifying for formal bidding procedures. The City Clerk or designee will oversee receiving, opening, and announcing all formal bids.
2. Competitively bid contracts will be executed by the Mayor and attested to by the City Clerk unless the council resolution approving the contract provides otherwise. Competitively quoted contracts will be executed by the City Manager or his designee.
3. The City Manager or designee will administer all contracts on the authority of the City Council.
4. All change orders, change in contract estimates, or any other adjustments of the contract price will be subject to these requirements.
 - a. Change orders or other changes in contract price must be in writing and be completed in advance of the work. They must include a description of the work, the agreed upon cost, and be signed by the contractor and the City Engineer or designee.
 - b. Contract changes and changes in estimated quantities that are greater than 25% must be approved with the following limits and authority:
 1. Less than \$25,000 - City Engineer or designee;
 2. \$25,000 and \$150,000 – City Manager or designee;
 3. \$150,000 or more – City Council;
 - c. All change orders greater than \$10,000 must be reviewed by the Finance Director.
 - d. If a change order on a contract entered into by competitive quotation causes the entire contract price to exceed \$150,000, the contract and amendments shall be submitted for City Council approval.
 - e. If it is determined by the City Engineer or designee that the nature of the contract change is urgent and delay could jeopardize the progress of the project, the City Engineer or designee may authorize the contractor to initiate the work prior to obtaining the required approval set forth above. The required approval must be obtained, however, by the City Manager no more than 10 days from the City Engineer or designee's authorization and by the City Council within 20 days from authorization or at the next scheduled City Council meeting. The change order should include the reasons for the urgency.
5. Contracts for public improvements cannot be amended by change order or any other adjustment for work that is unrelated to the project as described in the approved plans and specifications.
6. The scope of public improvement projects shall not be adjusted for the purpose of circumventing the authorization limits of this policy, Council resolution, and state or federal law. Contract amendments and change orders shall not be used as a means of circumventing the authorization limits of this policy, Council resolution, and state or federal law.
7. For all public improvement contracts \$25,000 or higher, the contract must be accompanied by a bond, with surety, conditioned for the faithful performance of the contract, and for fulfillment of other requirements as provided by Iowa law in accordance with Iowa Code section 573.2. The amount of the performance and payment bond must be at least 100% of the contract price.
8. Where appropriate, retainage shall be withheld on contracts for public improvements as provided for by State law or on other contracts as deemed appropriate or necessary. Retainage on a contract shall be 5% of the cost of the public improvement, unless otherwise limited by state or federal grant programs. An application by a contractor for early release of a retainage requires City Council consideration and approval.

9. The final acceptance (certificate of completion), the final contractor payment, and the release of retainage authorization (unless early release applied for) of a formally bid contract shall be approved by City Council action at the same meeting.
10. All contracts awarded, change orders, or changes in contract price, must be entered into the City's financial computer system Munis along with supporting documentation. Contracts that include estimated quantities will be entered into Munis at the contract price plus 10% as a contingency. All contract payment requests must reference the Munis contract number.
11. Sales tax exemption certificates will be issued by the Engineering division upon request of the contractor.

V. Emergency Repairs

1. In accordance with Iowa Code Section 384.103, when emergency repair of a public improvement is necessary and the delay of advertising and a public letting might cause serious loss or injury to the City, the City Manager shall make a finding of the necessity to institute emergency proceedings under Iowa Code Section 384.103, and shall procure a certificate from a licensed professional engineer or registered architect certifying that emergency repairs are necessary.
2. Where the City Manager has so certified, the City may accept, enter into, and make payment under a contract for emergency repairs without holding a public hearing and advertising for bids, and the provisions of Chapter 26 do not apply.
3. The work must be awarded to the lowest responsible, responsive bidder.
4. The emergency repair finding and the approved construction contract shall be entered into the City Council minutes at its next regularly scheduled or special called meeting.
5. If the emergency repair would otherwise be a public improvement requiring competitive bidding under Chapter 26:
 - a. The City Engineer or designee must solicit at least two written quotations from qualified contractors or suppliers.
 - b. The contractor must provide a performance and payment bond for a public improvement of \$25,000 or more.
6. If the emergency repair would otherwise be a public improvement requiring Competitive Quotations:
 - a. The Emergency Purchase provisions of Section III.I. of the Purchasing Policy Manual shall be followed.

APPENDIX I. PURCHASING TERMS AND DEFINITIONS

Bid Bond: A monetary commitment (cashier's check or certified check) made by a third party to accept liability and to guarantee that the bidder will not withdraw the bid. The certified check or cashier's check will not exceed 10% of the bid price and will accompany the bid upon submittal. If an award is made and the successful bidder fails to enter into a contract with the City, the City is entitled to the entire amount of the bid bond.

Bid Opening: A specified time and date where formal bids are opened and the enclosed information is publicly read. The bidder's name, price, items offered, delivery, etc. are read during the opening.

Capital Asset: Assets that have a life expectancy beyond one year and a cost of \$5,000.00 per item or more (examples: land, land improvement, building, equipment).

Capital Outlay/Expenditure: Expenditures for acquiring land, building, equipment or other property, or for their preservation, development or permanent improvement (i.e. the acquisition or renovation of capital assets). The threshold for capital outlay is \$5,000 per item or more. Purchases of goods under \$5,000 per item are considered supplies.

City: Shall mean the City of Iowa City, Iowa.

Competition: The process by which two or more vendors attempt to secure the business of a third party through the offer of the most favorable price, quality, delivery terms or service.

Contract: A legally binding agreement, oral or in writing, enforceable by law.

Emergency Purchase: A purchase made due to an unexpected and urgent request, where health and safety or the conservation of public resources is at risk.

Evaluation Committee: A group or team of advisors selected to assist in recommending a vendor for a contract award.

Goods: Anything purchased other than services or real property.

Online Bidding: A procurement process in which an invitation for bid or request for proposal is posted electronically over the internet in a real-time, competitive bidding event.

Operating Services: The furnishing of labor and time by a contractor or a vendor, which may involve to a lesser degree, the delivery or supply of products. Examples of contractors providing operational services are those working within trades, such as plumbing, electrical services, and HVAC. Professional and Consulting Services are not Operational Services.

Performance Bond: A bond, issued upon award of the contract, that secures the performance of all terms, conditions, and agreements stated within the contract by the vendor. A performance bond protects the buyer from the vendor's inability to complete the contract.

Pre-Solicitation (Pre-Submission Conference): A meeting with prospective bidders or proposers to clarify the requirements of a contract to be put out for bid or proposal.

Procurement: Purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction; includes all functions that pertain to the acquisition, description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration; combining the functions of purchasing, inventory control, traffic and transportation, receiving, inspection, storekeeping, and salvage and disposal operations.

Professional and Consulting Services: Services provided by consultants or individuals or organizations possessing a high degree of education and training, such as lawyers, physicians, architects, planners, and engineers. The requested services may include information, professional advice, training, or direct assistance. Contractors working within other skilled or technical trades, such as construction, mechanical, plumbing, electrical services, etc. are considered as providing Operational Services, not Professional and Consulting Services.

Purchasing Policy: Governing principle which establishes the general parameters for the organization to follow in carrying out its responsibility for procuring equipment, supplies and services, etc. in the most efficient and economical method possible.

Public Improvement: Iowa Code Chapter 26 provides the following definition:

3. a. "Public improvement" means a building or construction work that is constructed under the control of a governmental entity and for which either of the following applies:(1) Has been paid for in whole or in part with funds of the governmental entity.(2) A commitment has been made prior to construction by the governmental entity to pay for the building or construction work in whole or in part with funds of the governmental entity

b. "Public improvement" includes a building or improvement constructed or operated jointly with any other public or private agency, but excludes all of the following:(1) Urban renewal demolition and low-rent housing projects.(2) Industrial aid projects authorized under chapter 419.(3) Emergency work or repair or maintenance work performed by employees of a governmental entity.(4) A highway, bridge, or culvert project.(5) Construction or repair or maintenance work performed for a city utility under chapter 388 when such work is performed by its employees or when such work relates to existing utility infrastructure. For purposes of this subparagraph, "utility infrastructure" includes facilities used for the storage, collection, disposal, treatment, generation, transmission, or distribution of water, sewer, waste, electricity, gas, or telecommunications service. (6) construction or repair or maintenance work performed for a rural water district under chapter 357A by its employees.

4. "Repair or maintenance work" means the preservation of a building, storm sewer, sanitary sewer, or other public facility or structure so that it remains in sound or proper condition, including minor replacements and additions as necessary to restore the public facility or structure to its original condition with the same design.

5. "Under the control of a governmental entity" includes determining the construction work to be performed or establishing the specifications for a building or construction work to be occupied by the governmental entity.

Real Property: Land and its permanently affixed buildings or structures.

Responsible Bidder: A vendor who has the capability in all respects to fully perform the contract requirements, and the integrity and reliability which will assure good faith performance.

Responsive Bidder: A vendor who submits a bid or proposal that fully conforms to all requirements contained within the solicitation.

Request for Qualifications (RFQ): A formal procurement method sometimes used in the formal process of procuring a product or service. The Request for Qualifications is typically used as a screening step to establish a pool of vendors (businesses or individuals to provide a product or service) that then undergo a qualifications evaluation.

Request for Quote (RFQ): A semi-formal procurement method used to procure a specific requirement (goods/services). A Request for Quote requires a minimum of three written quotations be sought, and an award will be made to the vendor who provides the quote with the best combination of cost and quality for the specified good or service.

Request for Bid (RFB): A formal procurement method used to procure a specific requirement (goods/services). A Request for Bid requires the submission of sealed bids and a public bid opening. Award is made to the lowest responsible and responsive bidder meeting the standards, specifications, and terms and conditions contained within the solicitation.

Request for Proposal (RFP): A formal procurement method similar to a Request for Bid, except that factors other than price (such as quality, timeliness, experience, ability to meet specifications) are also considered in making the award.

Risk Management: The identification, measurement and treatment of property, liability, and personal loss exposures; includes analysis of potential risk situations and insurance needs, as well as the amount of financial coverage needed to protect the government.

Sealed: The submission of responses to a solicitation in a form that prevents disclosure of the contents prior to a date and time established by the department or division for opening the responses.

Specification: A detailed description of the physical, functional, or performance characteristics of a good or service that must be met before a contract is awarded.

Sole Source: A purchase to fulfill a need for a commodity or service where there is only one product or service that meets the department's needs, and there is only one vendor offering the product or service. Only one vendor possesses the unique and singularly available capability to meet the requirements (technical specifications) of the solicitation.

Surplus: Supplies or commodities that have completed their useful life and no longer have use to the original consumer, but may have some purpose or alternative use to another department within the City, or to an individual or entity outside the City.

Tax Exempt: The City is exempt from all Federal, State of Iowa, and other states' taxes on the purchase of commodities and services used by the City of Iowa City within the State of Iowa.

Vendor: A supplier/seller of goods or services.

APPENDIX II. PURCHASING UNDER FEDERAL AWARDS

In addition to other provisions required by a Federal agency or the City, all contracts made by the City under a Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 601.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles

ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 74017671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. **All vendors/contractors will be checked in www.sam.gov to verify that they are not debarred/suspended/excluded from being paid with federal funds.**

(J) Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

- (1) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- (2) Affirmative steps must include:
 - (a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - (d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(e) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(f) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (a) through (e) of this section.

(K) See §200.322 Procurement of recovered materials.